

## SULTAN CITY COUNCIL AGENDA COVER SHEET

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**ITEM NO:** D-2

**DATE:** June 21, 2010

**SUBJECT:** Economic Stimulus  
Plat/PUD Extensions and Impact Fee Deferrals

**CONTACT PERSON:** Deborah Knight, City Administrator

**ISSUE:**

The issue before the city council is discussion of the planning board's recommendation to amend the Sultan Municipal Code Development Regulations (SMC Title 16) to implement short-term changes to the City's Zoning and Land Division Codes to offer relief and economic stimulus during the recession.

**STAFF RECOMMENDATION:**

1. Discuss the planning board's recommendation.
2. Direct staff to prepare an adopting ordinance to amend SMC Title 16 to provide for short-term plat/PUD extensions and deferral of park and transportation impact fees.

Since the council's action will amend the development regulations in Title 16, the community development director is required to issue a SEPA determination. City staff will use the expedited SEPA process approved by the Department of Commerce. Staff will bring back the adopting ordinance to amend SMC Title 16 for council consideration in August after the SEPA comment and appeal period are complete.

**PLANNING BOARD RECOMMENDATION:**

City staff recommend the council consider the planning board recommendation and public input from the public hearing on April 20, 2010 to amend Title 16 SMC as set forth in Attachment A to:

1. Allow an additional 2-year extension to "active" Preliminary Plats/PUD's, set to expire in 2010 and 2011, with Council approval of a Developer Agreement. This action will provide time for the housing market to continue to recover and potentially for developers to build homes or market properties to another builder. The following municipal code chapters will be amended as set forth in Attachment A.

- SMC 16.10.150 – Expiration of Preliminary Planned Unit Development (PUD)
  - SMC 16.10.200 – Expiration of Final PUD
  - SMC 16.28.210 – Compliance with Conditions of Approval for a Short-Plat
  - SMC 16.28.350 – Term of Preliminary Plat approval including those connected to PUD's
2. Implement a short-term (2 year) pilot project during which time the City would allow developers building residential units for resale only to postpone payment of park impact fees (\$3,175) and transportation impact fees (\$5,272) for single-family residential homes.
- Impact Fees would be due at building permit application unless the developer/builder (“applicant”) executes a promissory note specifying the fees deferred and a deed of trust recorded against the parcel securing the amount due pursuant to the promissory note.
  - The deed of trust must be either the first deed of trust or second deed of trust.
  - Payment of impact fees may be deferred from building permit issuance to the earlier of 1) close of escrow for each distinct dwelling unit or permanent loan financing; or 2) eighteen (18) months from the date of issuance of the building permit.
  - The applicant must pay the impact fee rate in effect at the time of payment not the impact fee in effect at the time of deferral.
  - The developer/builder would pay a \$350.00 administrative fee and the direct costs for the title report and recording the deed of trust and note with Snohomish County.
  - The Policy would sunset on June 30, 2012 unless the Council took action to extend the sunset date or make the change permanent.
  - The following municipal code chapters will be amended as set forth in Attachment A: SMC 16.112.060 – Collection of Impact Fees

## **SUMMARY:**

### Background

In response to the present economic conditions, other cities in the region have been adopting short-term revisions to Zoning and Land Division Codes to offer relief and economic stimulus during the recession.

This issue was a discussion item at city council meetings on January 28, 2010, February 11, 2010 and March 11, 2010. The city council considered a number of different issues relating to park impact fees, transportation impact fees and utility connection fees.

The Council directed the planning board to amend the Sultan Municipal Code Development Regulations (Title 16) to implement short-term changes to the City's Zoning and Land Division Codes to offer relief and economic stimulus during the recession.

The planning board discussed the issue at its April 6, 2010 meeting and set a public hearing for April 20, 2010. The planning board held the April 20 public hearing. The planning board received comments from Craig Sears (Taylor Group), Ginger York, the Master Builders Association, and Josie Fallgatter (Attachment B).

### Public Comment

The Master Builders Association supported the staff recommended amendments to the Sultan Municipal Code. Mrs. Ginger York requested the planning board further consider deferring impact fee payments until actual building occupancy rather than at certificate of occupancy (C of O). Mrs. York explained small developers struggle with paying the impact fees in this credit market until the units are sold. Units can continue to sit empty even after C of O is issued by the city. Ms. Fallgatter questioned whether the proposed stimulus measure would encourage developers to finish their proposed projects. She also pointed out the city has financial obligations and delaying impact fees could prevent the economic development created when the city uses its impact fees to improve roads and parks.

### Planning Board Discussion

The planning board directed staff to provide additional information on deferring impact fee payments until the time of closing of sale. The discussion centered around recording a covenant against the property for the impact fee in effect at the time of payment. Fees associated with filing and recording the covenant as well as its release following payment of the fee would be paid by the applicant (developer).

At the planning board's May 4, 2010 meeting, the board discussed amending the staff recommendation to use a recorded covenant against the property as the mechanism to secure impact fee payments. Planning board member Bob Knuckey recommended using a promissory note and deed of trust instead of a covenant to secure impact fee payments.

City staff and the city attorney reviewed Mr. Knuckey's proposal to adopt a policy of guaranteeing payment of deferred impact fees using a promissory note and deed of trust. Attachment C includes a similar program initiated by the City of Pleasanton, California. Staff recommend using the Pleasanton program as a template for the City of Sultan.

## **DISCUSSION:**

City staff reviewed sample deferral procedures from four jurisdictions: Federal Way, Sammamish, Folsom, CA and Pleasanton, CA (Attachment C). The table in Attachment C summarizes the policies and procedures from the sample jurisdictions for deferring impact fees to time of sale or date certain after the issuance of building permit.

### Best Practices

The best practice from a staff perspective is to have the impact fee due at the time of certificate of occupancy. This is the last opportunity the city has to collect the impact fee without additional staff time and potential for the unit to be occupied without collecting the fee.

If the planning board wants to recommend the fee be deferred until after the certificate of occupancy is issued, city staff recommend the planning board consider the following:

- Residential units for resale only - properties sold upon completion of the structure.
- Close of escrow for initial sale or permanent loan financing or 18 months after the date of building permit issuance from the property owner of record whichever is earlier
- Signed agreement creating first priority lien (if legally possible) to secure payment of deferred residential development fees (see Folsom, CA).
- \$350 administrative fee. 10% of impact fee at bldg permit. A penalty of interest computed on unpaid balance due if not paid when due
- Administrative hold on subsequent land use applications and/or permits if not paid when due.

### Affected Developments

The proposal is to limit the changes to active Preliminary and Final Plats/and Planned Unit Developments (PUD's).

The ordinance would not apply to expired Preliminary or Final PUD's/Plats or Preliminary or Final PUD's/Plats filed after either a date specific (e.g. January 1, 2010) or the effective date of the Ordinance as recommended by the planning board.

The proposed ordinance would not apply to the most recently approved Preliminary PUD extension which expired on April 10, 2010 unless the applicant files the necessary Final PUD materials as described in SMC 16.10.150.

The proposed ordinance would not apply to the most recently filed application for a PUD, accepted by the city in November 2009, since the applicant has not completed the necessary steps for a Preliminary PUD. The PUD is not yet considered “active” since it has not received council approval.

The following table summarizes the status of development applications submitted to the city:

DEVELOPER	TYPE	PRE-APP DATE	PRELIMINARY APPROVAL	EXPIRATION
Brickyard (Vodnick)	PUD	7/27/05	2007	09/6/2009 - expired
Cascade Breeze	Subdivision	07/06/05	2006	2011
Green	PUD	11/01/06	2007	Final PUD Approved Subdivision expires 2013
Hammer	PUD	07/26/05	2007	Hold pending bankruptcy
Joshua Freed - Caleb Court	PUD	09/01/06	2008	04/10/2010 - expired
Ramirez Twin Rivers	Subdivision	12/01/04	2007	2012
Steen Park	Subdivision		Final Plat 8/2007	N/A

### **State Legislative Efforts**

The Master Builders Association was unsuccessful in advancing ESSB 3067 which would have required cities in King and Snohomish Counties that collect impact fees to allow residential builders to require homebuyers to pay the impact fees at closing vs. builders paying when applying for a permit.

However, SB 6544 enacted in March and effective June 10, 2010 for applications submitted after June 10, 2010 provides the following:

- Extends time limitations associated with final plat submissions and the requirements governing applicable subdivisions from five to seven years.
- Expires the extension provisions on December 31, 2014.

### **FISCAL IMPACT:**

There are pros and cons associated with the decision to adopt a permit extension or the point at which impact fees are collected. This is the reason why the vast majority of cities have adopted short-term changes necessary to stimulate the economy.

The intent of adopting these types of ordinances is to provide short-term relief and get homebuilders and developers moving again. This is balanced against the need to ensure that in the long-run, after the economy has recovered – the requirement to move projects along and not tie up land and staff resources is necessary.

City staff have some specific concerns about tracking the payment of impact fees through certificate of occupancy. The planning board and city council need to ensure whatever system is adopted can be efficiently implemented by city staff with a minimum level of paperwork for both the developer and the city.

A decision by the city council to fundamentally change the land division code should be carefully considered and analyzed prior to implementation.

**ALTERNATIVES:**

1. Consider the planning board recommendation and public input from the public hearing. Direct staff to prepare an adopting ordinance to amend Title 16 SMC as set forth in Attachment A. This alternative indicates the city council understands the issue and supports short-term amendments to the Sultan Municipal Code to offer economic relief to developers during the economic recession. The city council may consider changes to the planning board proposal before directing staff.
2. Consider the planning board recommendation and public input from the public hearing. Do not direct staff to amend Title 16 SMC as set forth in Attachment A. This alternative implies the city council either doesn't support the proposed amendments or has questions and/or concerns that should be resolved before preparing an adopting ordinance. The city council should direct staff to areas of concern.

**RECOMMENDED ACTION:**

1. Discuss the planning board's recommendation.
2. Direct staff to prepare an adopting ordinance to amend SMC Title 16 to provide for short-term plat/PUD extensions and deferral of park and transportation impact fees.

**ATTACHMENTS:**

- A – Sample amendments to Sultan Municipal Code Title 16
- B - April 20, 2010 Written Comments
- C - Sample deferral policies/procedures (Pleasanton, CA; Federal Way, Sammamish, Sacramento County, and Folsom, CA,)
- D- Master Builders Association summary of economic stimulus measures

## Attachment A - Proposed Amendments to Sultan Municipal Code Title 16

### 16.10.150 Expiration of preliminary PUD.

A. For preliminary PUD approvals for which a master phasing plan has not also been approved pursuant to SMC [16.10.040](#), an applicant shall file an application for a final PUD approval with the city within 12 months from the date of preliminary PUD approval by the city council. This period shall automatically be tolled for any period of time during which a court appeal is pending.

B. The hearing examiner may authorize one additional 12-month extension for filing a final PUD application if the hearing examiner finds that such extension is consistent with the approval criteria required for each project and that no new information or change in circumstances justifies changing the city's previous preliminary PUD approval.

C. A phasing plan shall accompany the master plan, for developments where a general master plan for the entire project provides for the project to be constructed in phases. The phasing plan shall describe the general boundaries of each phase and the expected date at which a detailed site plan or subsequent preliminary and final PUD application for that phase of the development will be submitted; provided, however, no project to be developed in phases may exceed five years from the time the master plan is approved until the final phase is submitted. The hearing examiner, as a condition of preliminary PUD or master plan approval, may calculate the amount of time until completion and may also set a schedule for completion of the various phases; such time period may never exceed five years. The time period will be calculated based on the size, location, and development potential of the area, and the need for utility and service extensions for the proposed project and other projected developments in the area.

D. If a final PUD is not filed within the time periods provided in this section, the preliminary PUD approval shall expire, the PUD overlay zoning shall be removed from the official zoning map of the city and the property shall revert to the underlying "fallback" zoning shown on the official zoning map. (Ord. 1051-09 § 1; Ord. 793-02 § 1

#### E. Provisions for Temporary Extension of Preliminary PUD Approvals:

1. Effective until July 1, 2012, a one-time, 24-month extension of preliminary PUD approval may be granted by the Hearing Examiner in lieu of or in addition to the one-time 12-month extension authorized in 16.10.150 B. This extension shall be reviewed following the procedures set forth in 16.10.150 (B).

2. This provision is available to and only to developments which have a current valid unexpired preliminary PUD approval granted prior to July 1, 2010.

3. No more than one (1) extension may be valid at any time for a preliminary PUD.

4. In no case shall more than two extensions be granted to any preliminary PUD.

5. An extension granted under provision 16.10.150 E shall be calculated from the expiration date of any previously approved time extension.

6. The applicant for an extension under this provision shall submit a written request for an extension to the community development director at least ninety days (90-days) prior to the date upon which the preliminary PUD would otherwise expire.

## Attachment A - Proposed Amendments to Sultan Municipal Code Title 16

Failure to submit an extension request prior to the expiration date of the preliminary PUD shall result in the preliminary PUD being deemed expired. Applications for an extension under this provision shall consist of the following:

a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.

b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.

c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to engage in construction of a Development Agreement as provided by RCW ZZZ.ZZZ to insure that the form and function of the extended Preliminary PUD approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.

d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packed forwarded to the Hearing Examiner.

e. If the City and the Developer cannot come to agreement on the provisions of a Developer Agreement as required in item "d." above, the City shall prepare a set of findings and proposed Developer Agreement conditions that, in the City's opinion, should be included as a condition(s) of the extension.

f. Payment of the Hearing Examiner Fee as provided by the City of Sultan Annual Fee Schedule.

8. Upon receipt of a written extension request, the community development director shall schedule review of the application with the Hearing Examiner as provided in 16.10.150 B. The Applicant, the City, and the public shall be allowed to present brief verbal statements at a hearing according to provisions of SMC 2.26.090 through 2.26.120.

9. To approve an extension, the Hearing Examiner shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement, or City-proposed conditions for extension are appropriate. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject Preliminary PUD into conformance with City development standards as described in Section 16.10.150 E. 6. c. above.

10. If the extension is approved by the Hearing Examiner, the community development director shall notify the applicant in writing of the expiration of the initial 12-month extension and the granting of the 24-month extension including the date on which this extension expires.

## Attachment A - Proposed Amendments to Sultan Municipal Code Title 16

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A. For preliminary PUD approvals for which a master phasing plan has not also been approved pursuant to SMC [16.10.040](#), an applicant shall file an application for a final PUD approval with the city within 12 months from the date of preliminary PUD approval by the city council. This period shall automatically be tolled for any period of time during which a court appeal is pending.

B. The hearing examiner may authorize one additional 12-month extension for filing a final PUD application if the hearing examiner finds that such extension is consistent with the approval criteria required for each project and that no new information or change in circumstances justifies changing the city's previous preliminary PUD approval.

C. A phasing plan shall accompany the master plan, for developments where a general master plan for the entire project provides for the project to be constructed in phases. The phasing plan shall describe the general boundaries of each phase and the expected date at which a detailed site plan or subsequent preliminary and final PUD application for that phase of the development will be submitted; provided, however, no project to be developed in phases may exceed five years from the time the master plan is approved until the final phase is submitted. The hearing examiner, as a condition of preliminary PUD or master plan approval, may calculate the amount of time until completion and may also set a schedule for completion of the various phases; such time period may never exceed five years. The time period will be calculated based on the size, location, and development potential of the area, and the need for utility and service extensions for the proposed project and other projected developments in the area.

D. If a final PUD is not filed within the time periods provided in this section, the preliminary PUD approval shall expire, the PUD overlay zoning shall be removed from the official zoning map of the city and the property shall revert to the underlying "fallback" zoning shown on the official zoning map. (Ord. 1051-09 § 1; Ord. 793-02 § 1

#### E. Provisions for Temporary Extension of Preliminary PUD Approvals:

1. Effective until July 1, 2012, a one-time, 24-month extension of preliminary PUD approval may be granted by the Hearing Examiner in lieu of or in addition to the one-time 12-month extension authorized in 16.10.150 B. This extension shall be reviewed following the procedures set forth in 16.10.150 (B).

2. This provision is available to and only to developments which have a current valid unexpired preliminary PUD approval granted prior to July 1, 2010.

3. No more than one (1) extension may be valid at any time for a preliminary PUD.

4. In no case shall more than two extensions be granted to any preliminary PUD.

5. An extension granted under provision 16.10.150 E shall be calculated from the expiration date of any previously approved time extension.

6. The applicant for an extension under this provision shall submit a written request for an extension to the community development director at least ninety days (90-days) prior to the date upon which the preliminary PUD would otherwise expire.

## Attachment A - Proposed Amendments to Sultan Municipal Code Title 16

Failure to submit an extension request prior to the expiration date of the preliminary PUD shall result in the preliminary PUD being deemed expired. Applications for an extension under this provision shall consist of the following:

a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.

b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.

c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to engage in construction of a Development Agreement as provided by RCW ZZZ.ZZZ to insure that the form and function of the extended Preliminary PUD approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.

d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packed forwarded to the Hearing Examiner.

e. If the City and the Developer cannot come to agreement on the provisions of a Developer Agreement as required in item "d." above, the City shall prepare a set of findings and proposed Developer Agreement conditions that, in the City's opinion, should be included as a condition(s) of the extension.

f. Payment of the Hearing Examiner Fee as provided by the City of Sultan Annual Fee Schedule.

8. Upon receipt of a written extension request, the community development director shall schedule review of the application with the Hearing Examiner as provided in 16.10.150 B. The Applicant, the City, and the public shall be allowed to present brief verbal statements at a hearing according to provisions of SMC 2.26.090 through 2.26.120.

9. To approve an extension, the Hearing Examiner shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement, or City-proposed conditions for extension are appropriate. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject Preliminary PUD into conformance with City development standards as described in Section 16.10.150 E. 6. c. above.

10. If the extension is approved by the Hearing Examiner, the community development director shall notify the applicant in writing of the expiration of the initial 12-month extension and the granting of the 24-month extension including the date on which this extension expires.

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### 16.28.210 Compliance with conditions of approval.

All conditions for approval shall be met by the applicant within one year or the short subdivision shall be deemed expired. Sale, lease, or transfer of land within the subdivision shall not be completed until all conditions of approval have been met. (Ord. 1051-09 § 1; Ord. 840-04 § 1; Ord. 630 § 2[16.10.010(1)(a) (vii)(o)], 1995)

#### A. Provisions for Temporary Extension of Time to Meet Conditions of Short Plat Approval:

1. Effective until July 1, 2012, a one-time, 24-month extension of the time to comply with conditions of approval required by the City in approval of a short subdivision may be granted by the community development director. This extension shall be added to the one-year period required in 16.28.210 above. This extension shall be reviewed following the procedures set forth in this Section.
2. This provision is available to and only to developments which have a current valid unexpired short subdivision approval prior to July 1, 2010.
3. No more than one (1) extension may be issued for compliance with conditions of approval for a short subdivision.
4. An extension granted under this section shall expire any previously granted extension. The 24-month extension granted by this section shall be the only valid extension and shall be the final extension granted to a development.
5. The applicant for an extension under this provision shall submit a written request for an extension to the community development director at least ninety days (90-days) prior to the date upon which the short subdivision approval would otherwise expire. Failure to submit an extension request prior to the expiration date of the short subdivision shall result in the short subdivision being deemed expired. Applications for an extension under this provision shall consist of the following:
  - a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.
  - b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.
  - c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to engage in construction of a Development Agreement as provided by RCW 36.70B.170 to insure that the form and function of the short subdivision approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.
  - d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packet.

## Attachment A - Proposed Amendments to Sultan Municipal Code Title 16

6. Upon receipt of a written extension request, the community development director shall review the application.
7. To approve an extension, the community development director shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject short subdivision into conformance with City development standards as described in Section 16.28.210 A. 5. c. above.

### **16.28.350 Term of preliminary plat approval.**

- A. Approval of preliminary plat shall be effective for five years from the date of approval unless extended by the hearing examiner as provided for herein.
- B. Upon written application therefore by the applicant or his successor, and filed with the city at least 30 days prior to the expiration of approval, the hearing examiner may extend approval for not more than one additional one-year period, if, in the opinion of the hearing examiner, the applicant has attempted in good faith to submit the final plat within the five-year period in accordance with preliminary plat approval procedures contained herein.
- C. Nothing contained herein shall prohibit the applicant, during the effective life of the preliminary plat approval, from developing his or her subdivision and requesting final approval by divisions; provided, that no deviation from the general scheme of the preliminary plat as approved may be permitted in any manner other than by the procedures set out herein governing the approval of preliminary plats. (Ord. 1051-09 § 1; Ord. 840-04 § 1; Ord. 815-03 § 2; Ord. 630 § 2[16.10.010(1)(b)(v) (a)], 1995)

### D. Provisions for Temporary Extension of Preliminary PUD Approvals:

1. Effective until July 1, 2012, a one-time, 24-month extension of preliminary PUD approval may be granted by the Hearing Examiner in lieu of the one-time 12-month extension authorized in 16.28.350 B.
2. This provision is available to and only to developments which have a current valid unexpired preliminary plat approved granted prior to July 1, 2010
3. No more than one (1) extension may be valid at any time for a preliminary PUD.
4. In no case shall more than two extensions be granted to any preliminary plat including the extension granted under 16.28.350 D.
5. An extension granted under this section shall expire any previously granted extension. The 24-month extension granted by this section shall be the only valid extension and shall be the final extension granted to a development.

## Attachment A - Proposed Amendments to Sultan Municipal Code Title 16

6. The applicant for an extension under this provision shall submit a written request for an extension to the community development director at least ninety days (90-days) prior to the date upon which the preliminary plat would otherwise expire. Failure to submit an extension request prior to the expiration date of the preliminary plat shall result in the preliminary plat being deemed expired. Applications for an extension under this provision shall consist of the following:
  - a. A statement making the case for extension, specifically addressing the short-term economic issues, and the long-term economic viability of the project.
  - b. A statement acknowledging that the preliminary plat approval expires at the end of the extension without appeal or recourse for additional extensions.
  - c. A statement acknowledging that the City, as a condition of the extension, has the right to require the developer to engage in construction of a Development Agreement as provided by RCW 36.70B.170 to insure that the form and function of the extended preliminary plat approval meets the requirements of the City of Sultan land development standards as provided in SMC Title 12, Title 14, Title 16, Title 17, and the City's published Engineering Standards Document.
  - d. A draft Development Agreement agreed to by the Developer and the City shall be a required component of the application packed forwarded to the Hearing Examiner.
  - e. If the City and the Developer cannot come to agreement on the provisions of a Developer Agreement as required in item "d." above, the City shall prepare a set of findings and proposed Developer Agreement conditions that, in the City's opinion, should be included as a condition(s) of the extension.
  - f. Payment of the Hearing Examiner Fee as provided by the City of Sultan Annual Fee Schedule.
8. Upon receipt of a written extension request, the community development director shall schedule review of the application with the Hearing Examiner as provided in 16.10.150 B. The Applicant, the City, and the public shall be allowed to present brief verbal statements at a hearing according to provisions of SMC 2.26.090 through 2.26.120.
9. To approve an extension, the Hearing Examiner shall find that the proposed extension is supported by the information presented for review, and that the Draft Developer Agreement, or City-proposed conditions for extension are appropriate. Approval of any extension under this provision shall include specific recitation of any conditions required to bring the subject preliminary plat into conformance with City development standards as described in Section 16.28.350 D. 6. c. above.

## Attachment A - Proposed Amendments to Sultan Municipal Code Title 16

10. If the extension is approved by the Hearing Examiner, the community development director shall notify the applicant in writing of the expiration of the initial 12-month extension and the granting of the 24-month extension including the date on which this extension expires.

### **16.112.060 Collection of impact fees.**

The impact and administrative fees imposed under this code and identified in the city of Sultan's current fee schedule shall be due and payable at the time of issuance of a building permit for the development or issuance of an installation permit for a manufactured home or building. (Ord. 820-03 § 1; Ord. 630 § 2[16.13.060], 1995)

A. Prior to July 1, 2012, at the time of issuance of any single family residential building permit for a lot within a PUD, subdivision or short-subdivision that is being constructed for resale, the applicant may elect to ~~record a covenant~~ execute a promissory note and first or second deed of trust against each separate parcel securing the specific transportation and park impact fees deferred, their amounts, and timing for payment prior to the earlier of 1) close of escrow for each distinct dwelling unit or 2) eighteen (18) months after issuance of the building permit. The applicant will pay the impact fee rate in effect at the time of payment.

B. Under no circumstances will a building permit be issued under 16.112.060(1) until payment of any administrative fees set by council and proof of the recorded deed of trust and promissory note is accepted by the community development director, which acceptance will not be unduly withheld. ~~Furthermore, the permitted unit shall not be occupied or a certificate of occupancy issued until the impact and administrative fees are paid in full.~~



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f 425.646.5985 [www.masterbuildersinfo.com](http://www.masterbuildersinfo.com)

April 20, 2010

Planning Commission  
City of Sultan  
319 Main Street  
Sultan, WA 98294

Dear Planning Commissioners,

On behalf of over 3,800 member companies of the Master Builders Association of King and Snohomish Counties (MBA), I am writing to comment on item H-1/A-1 on the agenda this evening, titled "Permit Extensions and Impact Fee Payments."

***MBA supports the proposal to extend preliminary subdivision approvals.***

Extending the time period that homebuilders have to file for and complete final plats is a key component to stabilizing our troubled real estate sector, as well as our local financial institutions. Beyond the news regarding the troubled housing market that we are all familiar with, a difficulty just as challenging exists in the ability to obtain construction financing. Commonly known as AD&C loans (Acquisition, Development and Construction), homebuilders that are ready to proceed with projects simply cannot because of the ongoing credit crunch.

These extensions will give applicants a longer period of time to secure funding and obtain necessary building permits to fully complete their projects. In addition, these extensions are crucial to help prevent lending institutions from assuming the role of developer. When a permit approval expires, the lender assumes greater risk and potential loss. A lending institution may be forced to invoke an "impairment of security clause" to protect itself. While the lender and borrower may seek to work together to avoid that scenario, the lender must protect its position. The clock is always ticking on development loans and financial institutions must be mindful of that.

***MBA supports the proposal for impact fee deferrals.***

As stated above, obtaining funding for construction projects is difficult because of the ongoing credit crunch and troubles with local lending institutions. Equally as difficult is securing funding for “soft costs”, such as permit fees, consultant studies and impact fees. These fees are not factored into development loans and often the project applicant has to front these costs to get a project started. By deferring impact fees to later in the process, applicants can then focus on securing project financing, building a quality project and then collecting the impact fees directly from the buyer prior to occupancy. This will also eliminate the carrying costs that the applicant would be responsible for in the current collection scenario, where impact fees are paid up front and often not collected until several years later.

In order to get the economy going and stabilize the local housing market, steps need to be taken to remove barriers and make it possible for projects to get funded, permitted and completed. By allowing the extension of plat approvals and deferred impact fees, the City of Sultan will have taken two very important steps towards realizing this goal.

I look forward to working with the City of Sultan on any potential regulations or future code changes. If you have any questions or comments, I can be reached directly at (425) 460-8240.

Sincerely,

*Jennifer Jerabek*

Jennifer Jerabek, AICP  
South Snohomish County Manager

***sent via electronic mail***

cc: Deborah Knight, City Administrator  
Robert Martin, Community Development Director

Steen Park, LLC  
P.O. Box 12  
Startup, WA 98293  
Phone (425)268-8816

April 20, 2010

Mr. Chairman and Members of the Sultan Planning Commission  
319 Main Street  
Sultan, WA 98294

Dear Mr. Chairman and Members of the Sultan City Planning Commission:

Subject: Economic Stimulus Measures for the Home Building Industry

I would like to comment on the economic stimulus measures that are being considered by the City for the purpose of stimulating activity in the home building industry. It is wonderful to see the City actively consider the impact that they can make on business for the area through policy decisions. However, in order to get the most “bang for the buck” some changes should be considered to the stimulus measures that are under consideration.

As to the deferral of payment for mitigation fees, this would have real impact and give assistance if the fees were due at point of sale rather than certificate of occupancy. The whole benefit to deferring these fees is to assist with the credit crisis that builders face in trying to secure funding to build a home to sell to homebuyers. If this fee has to be paid before the home is sold the builder still faces the same problem as he does now. I understand the City’s concern with rentals and that once Certificate of Occupancy is issued the home could be occupied without the payment of the fees but I believe that this problem could be addressed through a fine or perhaps considering shutting off City service such as Water if the home becomes occupied without payment of the fees. By collecting the fees at point of sale the collection and transfer of the funds to the City and the release of the lien for mitigation fees would be handled by the Escrow service that always occurs at Point of Sale making this the most logical point of collection.

As to Plat extensions, it is more than obvious that there are a number of years of lot availability in the Sultan area. Last week Snohomish County unanimously voted to enact an ordinance that allowed further land use and building permit extensions. The measure enables applicants to extend permits associated with an underlying land use approval to run with the plat. Snohomish County granted extensions of an eight year time frame as the county has been particularly hard hit by the housing downturn and is suffering higher unemployment than other areas of the state making the longer time frame reasonable. I would ask that Sultan would take this example into consideration and recognize that the

distance from major job centers and difficulty selling homes in this area makes an eight year time frame even more reasonable in the City of Sultan.

Thank you for your consideration,

A handwritten signature in black ink that reads "Ginger York". The signature is written in a cursive style with a large, circular initial "G" and a long, sweeping tail on the "Y".

Ginger York  
Vice President  
Steen Park, LLC  
GY

## Deborah Knight

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**From:** jrose62@juno.com  
**Sent:** Thursday, February 25, 2010 3:57 PM  
**To:** carolyn.eslick@ci.sultan.wa.us  
**Cc:** deborah.knight@ci.sultan.wa.us  
**Subject:** Economic stimulus

Dear Mayor Eslick,

As I am unable to attend tonight's City Council meeting, I am requesting that submit this email as my public comment on the discussion item regarding economic stimulus through extending development deadlines and payment of impact fees.

How does extending the time allowed to complete projects encourage development? If the goal is to encourage development, not permitting extensions would encourage developers to finish their approved projects. Giving extensions, especially without requiring developers to pay associated fees provides an incentive not to develop. Additionally, the City has financial obligations as well as developers, and failing to collect the fees that developers owe will prevent the economic development created when the City uses its properly collected impact fees to improve roads, schools and parks.

Thank you,

Josie Fallgatter  
13231 Trout Farm Rd.  
Sultan, WA 98294

### Sample Impact Fee Deferral Policies and Procedures

Agency	Affected Applications	Due and Payable	Process	Fees
Federal Way (effective 7/1/10)	Single family	Prior to building permit or/ Closing of sale	City records covenant against property	Applicant pays fees to record and release covenant
Sammamish	Single family  Resale units only. Lots sold upon completion of structure  Expires: 12/31/2010	30 days escrow closing	City records lien against property  Amt due upon close of sale  Upon payment city releases lien	
Folsom California	Residential projects  Commercial on case-by- case determined by director	Earlier of:  Close of escrow for initial sale or permanent loan financing of rental units  12-24 months from the date of bldg permit issuance	No foreclosure w/in past 4 years  No bankruptcy w/in past 4 years  No outstanding civil judgment  Signed agreement creating first priority lien to secure payment of deferred residential development fees.	Interest accrues if not paid when due  \$1,000 admin cost if not paid when due  City may pursue collection, foreclosure and/or civil judgment for breach or non- payment
Pleasanton, CA	Residential development projects include: SF detached; duplex, condos, and town homes; residential mixed use	Earlier of:  Final inspection; issuance of C of O; close of escrow for each distinct unit	City staff determines applicant eligibility – no outstanding unpaid permits, licenses, fees, bills, etc.  Bldg dept calculates eligible fees  Attorney prepares note and deed of trust  All documents executed before bldg permit issued	

Added hr. / permit  
time consuming for staff  
Darcy Donovan - Permit:



PERMIT NUMBER							

801 – 228<sup>th</sup> Avenue SE • Sammamish, WA 98075 • Phone: 425-295-0500 • Fax: 425-295-0600 • web: www.ci.sammamish.wa.us

### AFFIDAVIT OF IMPACT FEE DEFERRAL

Parcel No: \_\_\_\_\_

I/We, \_\_\_\_\_ hereby certify that I am/We  
are the legal owner(s) of the Property described as \_\_\_\_\_

I/We understand that: \_\_\_\_\_

- 1) I/We am responsible for payment within 30 days of Escrow closing.
- 2) This is only for lots that will be sold upon completion of the structure.
- 3) I/We acknowledged this is not eligible for Over the Counter Process.
- 4) The city will require recording of a lien in a form approved by the City against the property to ensure payment prior to closing of sale of property.

State of \_\_\_\_\_ County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, the undersigned

Notary Public, \_\_\_\_\_, personally appeared and is known to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed it.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

Residing in: King County, Washington

Term Expires: \_\_\_\_\_

Property Owner: \_\_\_\_\_ Telephone No. \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Applicant \_\_\_\_\_ Telephone No. \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

WHEN RECORDED, RETURN TO:

City of Sammamish  
801 228<sup>th</sup> Ave SE  
Sammamish, WA 98075

**LIEN FOR DEVELOPMENT IMPACT FEES**

**Lien for the Benefit of Grantee:** City of Sammamish, a municipal corporation

**Persons Indebted to Grantee ("Grantor"):** \_\_\_\_\_.

**Reference Number(s) of Related Document(s):** \_\_\_\_\_.

**Legal Description (Abbreviated):** \_\_\_\_\_

Full description as set forth on attached Exhibit "A."

**Assessor's Tax Parcel ID Number:** \_\_\_\_\_.

**Application Number:** \_\_\_\_\_

Notice is hereby given that pursuant to SMC 14A.15.020 and SMC 14A.20.020, the City of Sammamish (the "City") possesses a Lien for Development Impact Fees ("Lien"), including park and traffic fees ("Impact Fees"), against the above-described real property.

The principal amount of the lien is: \$ \_\_\_\_\_.

Impact fees do not vest and, therefore, are subject to change without notice; to check the current impact fee amount, please call 425-295-0500.

This amount is due and owing to the City upon closing of sale of the above-described real property by the escrow agent from the proceeds of sale.

All payments shall be made payable to the City and shall be directed to the City of Sammamish Permit Center, 801 228<sup>th</sup> Ave SE, Sammamish, WA 98075.

Upon the receipt of notification that a sale is pending and Impact Fees are to be paid, the City agrees to deposit into escrow a fully executed Release of Lien, substantially in the form attached hereto as Exhibit B.



**ATTACHMENT A**

**(LEGAL DESCRIPTION OF PROPERTY)**

The City of Federal Way has adopted a Traffic Impact Fee Program (TIF) (Ordinance 09-627) with an effective implementation date of July 1, 2010. This guideline is designed to assist the development community in understanding the Traffic Impact Fee Program.

### **FREQUENTLY ASKED QUESTIONS**

#### **What are Traffic Impact Fees?**

Impact fees are charges based on a set fee assessed on all new development activity to pay for capital improvements that are needed to serve new development. Traffic impact fees are collected to improve the transportation system to accommodate the higher travel demand created by new development within the City limits of Federal Way. This fee will replace the existing pro-rata system.

The Revised Code of Washington (RCW 82.02.050) defines traffic impact fee programs as intended to: ensure that adequate facilities are available to serve new growth; establish standards by which new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

#### **When is Traffic Impact Fee Due?**

Traffic impact fee for all development are due and payable prior to the issuance of a building permit. However, for single family residential building permits, the applicant has the option to either pay the fee prior to issuance of a building permit or defer the payment to the time of closing of sale of each unit. With the deferral of an impact fee payment, the City would record a covenant against each property for the fee in effect at time of payment. Fees associated with filing and recording of the covenant as well as its release following payment of the fee shall be paid by the applicant.

#### **Exemptions**

Limited exemptions are established in the impact fee ordinance. Per RCW 82.02.09, any structures constructed by regional transit agencies are exempt. However, the following development activities which do not generate any new trips are excluded from the obligation to pay traffic impact fees:

- Alteration or expansion of an existing structure that does not add any square footage
- Miscellaneous improvements which do not increased p.m. peak trips, including, but not limited to fences, walls, residential swimming pools and signs;
- Demolition or removal of a structure within the City
- Miscellaneous permits such as Electrical, Fire Protection System, Mechanical, Plumbing, Right-of-way use, Shoreline and sign permits;
- Rezones, Comprehensive plan amendments, Land surface modifications, Commercial subdivisions, Boundary line adjustment and Lot line eliminations,

**Will I receive credits against the impact fees for my land dedication and/or construction?**

The applicant may request that a credit or credits for impact fees be awarded to him/her for the total value of system improvements, including dedications of land, improvements and/or construction provided by the applicant. Credits will be given on a case-by-case basis and shall not exceed the impact fee payable. Any claim for credit must be made before the payment of the impact fee.

Credits for the construction will be provided only if the land, improvements, and/or the facility constructed are listed as planned transportation projects in the Rate Study. No credit will be given for code-based frontage improvements or right-of-way dedications, direct access improvements to and/or within the subject development unless the improvement is part of a project listed on the Rate Study.

**Can Impact Fee Adjustments be made?**

Yes. The applicant may submit an independent fee calculation for the development activity. The documentation submitted must be prepared by a traffic engineer licensed in Washington State and shall be limited to adjustments in trip generation rates and lengths used in the Rate Study, and shall not include travel demand forecasts, trip distribution, transportation service areas, costs of road projects, or cost allocation procedures. The applicant will be required to pay the City on an hourly rate to cover the cost of reviewing the independent fee calculation.

**Can I get a refund if my project does not proceed?**

The applicant may request for a refund, including interest earned on paid impact fees when:

1. The applicant does not proceed to finalize the development activity for which the impact fees were imposed as required by statute or the Uniform Building Code, and
2. The City has not expended or encumbered the impact fees in good faith prior to the application for refund. If the City has expended or encumbered the fees in good faith, no refund will be provided. However, if within a period of three (3) years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit. The owner must petition the City in writing and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof.

**How is the impact fee determined for a change in use?**

For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement, or new accessory building that generates new trips, the impact fee will be assessed based on the difference between the new uses and the prior use. If no impact fee was required for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

**How often will Impact Fees Rates Change?**

The TIF rates will be indexed every year based on a three-year moving average of the Washington State Department of Transportation Construction Cost Index. A major update with a new rate study will occur every three years to account for new projects added to the 6-Year Transportation Improvement Program (TIP) and the Capital Improvement Program (CIP).

**How do I Calculate the Amount of My Impact Fee?**

Traffic Impact Fees will be determined by the City at the time the impact fee is paid based on the fee schedule in effect at the time of payment. A fee schedule is included in this guideline. The TIF is assessed based on the land use category as depicted in the impact fee schedule multiplied by the per unit cost.

**Total Impact Fee Cost = (Total Unit of Development x Impact Fee Rate)**

Below are examples of a typical project:

Land Use Category	Size (A)	Impact Fee Rate (Per Unit Cost) (B)	Total Impact Fee Cost (A x B)
Single Family (LUC 210)	25 Dwelling Units	\$3,112 per Dwelling Unit	\$77,800
Hotel (LUC 310)	90 Rooms	\$2,078 per room	\$187,020
Retail Center (LUC 814)	8,500 sf GFA	\$2.03 per sf/GFA	\$17,255
General Office	35,000 sf GFA	\$4.71 per sf/GFA	\$164,850

The fees listed in the table do not include the three percent (3%) administrative fee. The administrative fee is not creditable or refundable, and must be paid at the same time as the impact fee.

**Does this mean I will never have to prepare a Traffic Impact Analysis?**

No. The impact fee only covers off-site traffic mitigation derived from planned transportation projects as listed in the Rate Study. Additional improvement may be required as determine on a case-by-case basis. The following are examples of additional requirements the applicant may need to hire an Engineer to complete:

- Parking Demand and Utilization
- Specialized Land Use and Trip Generation
- Safety analysis (Sight Distance Analysis, Queuing and Gap analysis)
- Neighborhood Traffic Impacts
- Design of Mitigation Improvements such as signals, turn lanes, access, or new roads
- Traffic impacts over 100 trips in other peak hours such as morning and weekends

**Can I pay the Traffic Fee instead of the pro-rata mitigation identified in the Concurrency Analysis for my pending project?**

No. Any development permit application with a concurrency application in conjunction with a complete land use application is vested to the current pro-rata mitigation system. The applicant may migrate to the impact fee system only if the existing land use application expires or is cancelled by the applicant.

**Additional Information**

Additional information regarding Traffic Impact Fees is available on-line at [www.cityoffederalway.com](http://www.cityoffederalway.com) or contact Sarady Long, Senior Transportation Planning Engineer (253) 835-2743 or Rick Perez, City Traffic Engineer (253) 835-2740.

**Federal Way Impact Fee Components and Schedule**

Land Use	ITE Land Use Code	Unit of Measure	Basic Trip Rate	New Trip %	New Trip Rate	Avg. Trip Length (miles)	Trip Length Adjustment	Impact Fee Rate	Impact Fee Rate
Cost Per Trip End						3.1		\$2,729	\$2,729
<b>Residential</b>									
Single Family (Detached)	210	dwelling	1.01	100%	1.01	3.5	1.129	\$3,111.94	\$3,112
Multi-Family	220, 221, 230, 233	dwelling	0.62	100%	0.62	3.7	1.19	\$2,019.46	\$2,019
Senior Housing	251	dwelling	0.31	100%	0.31	2.8	0.90	\$764.12	\$764
Mobile Home in MH Park	240	dwelling	0.59	100%	0.59	2.8	0.90	\$1,454.29	\$1,454
<b>Commercial - Services</b>									
Drive-in Bank	912	sf/GFA	25.82	60%	15.49	1.5	0.48	\$20.46	\$20.46
Hotel	310	room	0.59	100%	0.59	4.0	1.29	\$2,077.56	\$2,078
Motel	320	room	0.47	100%	0.47	4.0	1.29	\$1,655.01	\$1,655
Day Care Center	565	sf/GFA	12.46	75%	9.35	2.0	0.65	\$16.45	\$16.45
Library	590	sf/GFA	7.30	75%	5.48	1.7	0.55	\$8.19	\$8.19
Post Office	732	sf/GFA	11.12	75%	8.34	1.7	0.55	\$12.48	\$12.48
Service Station	944	VFP	13.87	40%	5.55	1.7	0.55	\$8,302.85	\$8,303
Service Station with Minlart	945	sf/GFA	97.08	30%	29.12	1.7	0.55	\$43.59	\$43.59
Auto Care Center	942	sf/GLA	3.38	70%	2.37	2.2	0.71	\$4.58	\$4.58
Movie Theater	444, 445	seat	0.07	85%	0.06	2.3	0.74	\$120.47	\$120
Health Club	492, 493	sf/GFA	3.53	75%	2.65	3.1	1.00	\$7.23	\$7.23
<b>Commercial - Institutional</b>									
Elementary School	520	sf/GFA	1.21	80%	0.97	1.7	0.55	\$1.45	\$1.45
Middle/Jr High School	522	sf/GFA	1.19	80%	0.95	2.7	0.87	\$2.26	\$2.26
High School	530	sf/GFA	0.97	80%	0.78	3.7	1.19	\$2.53	\$2.53
Assisted Living, Nursing Home	254, 620	bed	0.22	100%	0.22	2.8	0.90	\$542.28	\$542
Church	560	sf/GFA	0.55	100%	0.55	3.7	1.19	\$1.79	\$1.79
Hospital	610	sf/GFA	1.14	80%	0.91	4.0	1.29	\$3.21	\$3.21
<b>Commercial - Restaurant</b>									
Restaurant	931	sf/GFA	7.49	60%	4.49	3.4	1.10	\$13.45	\$13.45
High Turnover Restaurant	932	sf/GFA	11.15	60%	6.69	2.3	0.74	\$13.55	\$13.55
Fast Food Restaurant	934	sf/GFA	33.84	50%	16.92	2.0	0.65	\$29.79	\$29.79
Espresso with Drive-Through	938	sf/GFA	75.00	20%	15.00	2.0	0.65	\$26.41	\$26.41
<b>Commercial - Retail Shopping</b>									
Shopping Center	820	sf/GLA	3.87	70%	2.71	2.1	0.68	\$5.01	\$5.01
Supermarket	850	sf/GFA	10.50	75%	7.88	2.1	0.68	\$14.56	\$14.56
Convenience Market	851	sf/GFA	52.41	45%	23.58	1.3	0.42	\$26.99	\$26.99
Free Standing Discount Store	813, 815, 857	sf/GFA	4.67	70%	3.27	2.1	0.68	\$6.04	\$6.04
Hardware/Paint Store	816	sf/GFA	4.84	40%	1.94	1.7	0.55	\$2.90	\$2.90
Specialty Retail Center	814	sf/GFA	2.71	50%	1.36	1.7	0.55	\$2.03	\$2.03
Furniture Store	890	sf/GFA	0.45	60%	0.27	1.7	0.55	\$0.40	\$0.40
Home Improvement Superstore	862	sf/GFA	2.37	70%	1.66	2.1	0.68	\$3.07	\$3.07
Pharmacy with Drive-Through	881	sf/GFA	10.35	50%	5.18	1.7	0.55	\$7.74	\$7.74
Car Sales -New/ Used	841	sf/GFA	2.59	80%	2.07	4.0	1.29	\$7.30	\$7.30
<b>Commercial - Office</b>									
General Office	710, 715, 750	sf/GFA	1.49	90%	1.34	4.0	1.29	\$4.72	\$4.72
Medical Office	720	sf/GFA	3.46	75%	2.60	4.0	1.29	\$9.14	\$9.14
<b>Industrial</b>									
Light Industry/Manufacturing	110, 140	sf/GFA	0.97	100%	0.97	4.0	1.29	\$3.42	\$3.42
Heavy Industry	120	sf/GFA	0.68	100%	0.68	4.0	1.29	\$2.39	\$2.39
Industrial Park	130	sf/GFA	0.86	100%	0.86	4.0	1.29	\$3.03	\$3.03
Mini-Warehouse/Storage	151	sf/GFA	0.26	100%	0.26	4.0	1.29	\$0.92	\$0.92
Warehousing	150	sf/GFA	0.32	100%	0.32	4.0	1.29	\$1.13	\$1.13

City Center Impact Fee Rates										City Center Reduction Factor	City Center Impact Fee Rate	City Center Impact Fee Rate
<b>Residential</b>												
Multi-Family (CC)	220, 221, 230, 233	dwelling	0.62	100%	0.62	3.7	1.19	\$2,019.46	\$2,019	72%	\$1,453.68	\$1,454
Senior Housing (CC)	251	dwelling	0.31	100%	0.31	2.8	0.90	\$764.12	\$764	72%	\$550.08	\$550
<b>Commercial - Services</b>												
Drive-in Bank (CC)	912	sf/GFA	25.82	60%	15.49	1.5	0.48	\$20.46	\$20.46	70%	\$14.32	\$14.32
Day Care Center (CC)	565	sf/GFA	12.46	75%	9.35	2.0	0.65	\$16.45	\$16.45	70%	\$11.52	\$11.52
Library (CC)	590	sf/GFA	7.30	75%	5.48	1.7	0.55	\$8.19	\$8.19	70%	\$5.73	\$5.73
Post Office (CC)	732	sf/GFA	11.12	75%	8.34	1.7	0.55	\$12.48	\$12.48	70%	\$8.74	\$8.74
Movie Theater (CC)	444, 445	seat	0.07	85%	0.06	2.3	0.74	\$120.47	\$120	70%	\$84.00	\$84.00
Health Club (CC)	492, 493	sf/GFA	3.53	75%	2.65	3.1	1.00	\$7.23	\$7.23	70%	\$5.06	\$5.06
<b>Commercial - Restaurant</b>												
Restaurant (CC)	931	sf/GFA	7.49	60%	4.49	3.4	1.10	\$13.45	\$13.45	70%	\$9.42	\$9.42
High Turnover Restaurant (CC)	932	sf/GFA	11.15	60%	6.69	2.3	0.74	\$13.55	\$13.55	70%	\$9.49	\$9.49
Fast Food Restaurant (CC)	934	sf/GFA	33.84	50%	16.92	2.0	0.65	\$29.79	\$29.79	70%	\$20.85	\$20.85
<b>Commercial - Retail Shopping</b>												
Shopping Center (CC)	820	sf/GLA	3.87	70%	2.71	2.1	0.68	\$5.01	\$5.01	70%	\$3.51	\$3.51
Supermarket (CC)	850	sf/GFA	10.50	75%	7.88	2.1	0.68	\$14.56	\$14.56	70%	\$10.19	\$10.19
Pharmacy with Drive-Through (CC)	881	sf/GFA	10.35	50%	5.18	1.7	0.55	\$7.74	\$7.74	70%	\$5.42	\$5.42
<b>Commercial - Office</b>												
General Office (CC)	710, 715, 750	sf/GFA	1.49	90%	1.34	4.0	1.29	\$4.72	\$4.72	60%	\$2.83	\$2.83
Medical Office (CC)	720	sf/GFA	3.46	75%	2.60	4.0	1.29	\$9.14	\$9.14	60%	\$5.48	\$5.48

Notes:  
 GFA = Gross Floor Area  
 GLA = Gross Leasable Area  
 CC = City Center  
 For uses with Unit of Measure in sf, trip rate is given as trips per 1,000 sf  
 VFP = Vehicle Furling Pointers (Maximum number of vehicles that can be loaded simultaneously)

**ORDINANCE NO. 1108**

**AN ORDINANCE OF THE CITY OF FOLSOM ADDING CHAPTER 16.80  
TO THE FOLSOM MUNICIPAL CODE RELATING TO  
DEFERRAL OF CERTAIN DEVELOPMENT IMPACT FEES**

The City Council of the City of Folsom hereby does ordain as follows:

**SECTION 1 PURPOSE**

The purpose of this ordinance is to amend the Folsom Municipal Code to allow deferral of certain development impact fees for eligible new residential and commercial construction projects in the City of Folsom.

The Mitigation Fee Act (Government Code Sections 66000 *et seq.*) authorizes the City to adopt and regulate monetary exactions for the purpose of defraying all or a portion of the public facility costs relating to a development project. The development impact fees are charged as a condition of approval and are used to alleviate the effects of development on the community by financing public improvements, services, or programs that bear a reasonable relationship to the development. Many cities, such as the City of Folsom, require applicants to pay mitigation fees as a precondition to issuing a building permit. The City may determine when such fees are to be paid.

The City's development impact fees include, but are not limited to, the Solid Waste Capital Improvement Service Charge (Chapter 3.20), the Capital Improvement New Construction Fee (Chapter 3.80), the Park Improvement Fund (Chapter 4.10), the Humbug-Willow Creek Fee (Chapter 4.12), the Light Rail Transportation Service Fee (Chapter 10.50), the Transportation Improvement Fee (Chapter 12.04), the Water Impact Fee (Chapter 13.30), and the Drainage Facility Improvement Charges (Chapter 17.95).

This ordinance alleviates certain barriers to development, in light of the challenges facing the real estate development industry in a fluctuating market economy, by allowing eligible applicants to defer certain development impact fees.

**SECTION 2**

Chapter 16.80 is hereby added to the Folsom Municipal Code to read as follows:

**Chapter 16.80**

**TEMPORARY DEFERRAL OF DEVELOPMENT IMPACT FEES**

**16.80.010 Findings and purpose.**

The City Council finds that the challenges facing the real estate industry in an unstable and fluctuating market pose a significant concern for growth and economic development within the City. The purpose of this Chapter is to provide a limited duration

temporary economic stimulus incentive to new development projects within the City by allowing eligible applicants to defer certain development impact fees.

**16.80.020 Definitions.**

The following words and phrases are defined for purposes of this Chapter as follows:

“Applicant” means the owner or owners of record of the real property for which a fee deferral is sought pursuant to this Chapter.

“Code” means the Folsom Municipal Code.

“Commercial” means those business activities which are permitted or allowed in the BP, C-1, C-2, C-3, or CH zoning districts as set forth in Title 17 of this Code.

“Director” means the Director of the Community Development Department of the City.

“Eligible Applicant” means an Applicant meeting the Eligibility Criteria for deferral of impact fees.

“Eligibility Criteria” means an objective standard established by the Director with concurrence of the City Manager, which may be amended from time to time as deemed necessary, used to determine appropriateness for incentives under this Chapter.

“Fee Deferral Agreement” means an agreement, including a deed of trust, by and between the Applicant and the City acceptable to the City Attorney, which is a prerequisite requirement for approval for any fee deferral under this Chapter.

“Subject Property” means the real property owned by the Applicant subject to the Fee Deferral Agreement.

“Residential” means those activities which are permitted or allowed in the R-1-L, R-1-ML, R-1-M, R-2, R-3, R-M, R-4, or residential PD zoning districts as set forth in Title 17 of this Code.

**16.80.030 Deferral of development impact fees for residential projects.**

A. Notwithstanding any other provisions of this Code, some or all of the development impact fees imposed on new Residential buildings and structures located in the City may, upon application by an Eligible Applicant and approval of the Director, be deferred subject to the provisions set forth below without incurring interest. Fees eligible to be deferred shall be set by Resolution of the City Council.

B. Prior to the City’s consideration of an application for deferral of impact fees, the Applicant shall provide to the Director, at the Applicant’s sole cost and expense, a current preliminary title report on the Subject Property.

C. No deferral shall be effective until the Applicant provides proof of payment demand for the deferred fees in favor of the City to an escrow company and executes a Fee Deferral Agreement, approved by the City Manager and in a form acceptable to the City Attorney, which shall be recorded as a lien against the Subject Property with a deed of trust until all deferred impact fees are paid.

D. The maximum deferral period shall be:

1. Two years from the date of issuance of the building permit for the Subject Property or upon the close of escrow or occupancy of said property, whichever occurs first, if a first priority lien is recorded against the Subject Property in favor of the City under subsection C above; or

2. One year from the date of issuance of the building permit for the Subject Property or on the date of the final inspection of said property, whichever occurs first, if the lien recorded under subsection C above is not a first priority lien.

E. Subject to review and approval by Resolution of the City Council, the Eligibility Criteria for deferral of impact fees shall be established by the Director, which may be amended from time to time as deemed necessary.

F. Notwithstanding any provision to the contrary, should the deferred impact fees not be paid at the time when they become due and payable:

1. Interest on unpaid fees subject to the Fee Deferral Agreement shall accrue from the date of issuance of the initial building permit until the deferred impact fees and all accrued interest is paid, at the annual rate of interest which the City earns on its investment of pooled funds; and

2. An additional \$1,000.00 shall be added to the unpaid amount to cover the initial administrative costs incurred in processing the fee deferral application; and

3. The City may pursue collection through all available legal and administrative means including, but shall not be limited to, judicial or non-judicial foreclosure of the recorded lien against the Subject Property and/or civil judgment against the Applicant for breach of the Fee Deferral Agreement and/or the security provided hereunder.

16.80.040 Deferral of development impact fees for commercial projects.

A. Notwithstanding any other provisions of this Code, some or all of the impact fees imposed on new Commercial buildings and structures located in the City may, upon application by an Eligible Applicant and approval of the Director, be deferred on a case-by-case basis. Fees eligible to be deferred shall be set by Resolution of the City Council.

B. Interest on unpaid fees subject to the Fee Deferral Agreement shall accrue from the date of the building permit until the deferred impact fees and all accrued interest is paid, at the rate agreed to between the Applicant and the City, which shall not be less than the annual rate of interest which the City earns on its investment of pooled funds.

The deferred impact fees shall be paid within the deferral period, which shall not exceed 18 months from the date of issuance of the building permit, or on the date of the final inspection, whichever occurs first.

C. Prior to the City's consideration of an application for deferral of impact fees, the Applicant shall provide to the Director, at the Applicant's sole cost and expense, a current preliminary title report on the Subject Property.

D. No deferral shall be effective until the Applicant provides proof of payment demand for the deferred fees in favor of the City to an escrow company and executes a Fee Deferral Agreement, approved by the City Manager and in a form acceptable to the City Attorney, which shall be recorded against the Subject Property with a deed of trust as a lien against the Subject Property until all deferred impact fees are paid. The schedule for repayment of deferred fees shall be provided in the Fee Deferral Agreement.

E. Subject to review and approval by Resolution of the City Council, the Eligibility Criteria for deferral of impact fees shall be established by the Director with concurrence of the City Manager, which may be amended from time to time as deemed necessary.

F. Notwithstanding any provision to the contrary, should the deferred impact fees not be paid at the time when they become due and payable:

1. All remaining and unpaid impact fees shall be accelerated and become immediately due and payable; and

2. An additional \$1,000.00 shall be added to the unpaid amount to cover the initial administrative costs incurred in processing the fee deferral application; and

3. The City may pursue collection through all available legal and administrative means including, but shall not be limited to, judicial or non-judicial foreclosure of the recorded lien against the Subject Property and/or civil judgment against the Applicant for breach of the Fee Deferral Agreement and/or the security provided hereunder.

#### 16.80.050 Subordination.

The lien recorded in favor of the City against the Subject Property under the Fee Deferral Agreement shall not be subordinated.

#### 16.80.060 Applicability.

This Chapter and the incentives derived hereunder shall apply only to new development projects that have not obtained a building permit from the City at the time this Chapter is adopted by the City Council. This Chapter shall remain in effect until June 1, 2009, and as of that date is repealed unless a City Council Resolution adopted before June 1, 2009 extends that date for a period not to exceed six months.

**SECTION 3**

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

**SECTION 4 SEVERABILITY**

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 5 EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City of Folsom.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on April 22, 2008, and the second reading occurred at the regular meeting of the City Council on May 13, 2008.

On a motion by Vice Mayor Miklos, seconded by Council Member Howell, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 13th day of May, 2008 by the following vote, to wit:

AYES: Council Member(s): Miklos, Morin, Starsky, Howell, King

NOES: Council Member(s): None

ABSENT: Council Member(s): None

ABSTAIN: Council Member(s): None

  
Eric S. King, MAYOR

ATTEST:

  
Christa Schmidt, CITY CLERK

**Effective: June 12, 2008**

**Repealed: This Chapter shall remain in effect until June 1, 2009, and as of that date is repealed unless a City Council Resolution adopted before June 1, 2009 extends that date for a period not to exceed six months.**



CITY OF FOLSOM  
APPLICATION FOR DEFERRAL OF  
DEVELOPMENT IMPACT FEES

NAME OF APPLICANT: \_\_\_\_\_

COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

ESCROW COMPANY: \_\_\_\_\_

ESCROW OFFICER & CONTACT INFO: \_\_\_\_\_

The undersigned Applicant seeks a fee deferral of the above-referenced project and proposes to enter into a Fee Deferral Agreement to be recorded against the affected property as a:

OR:

_____ Initial	First deed of trust priority lien
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_____ Initial	Other than first priority lien
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The Applicant represents the following: (PLEASE REVIEW AND INITIAL)

_____ Initial	The Applicant has reviewed the fee deferral provisions of Chapter 16.80 of the Folsom Municipal Code and understands the deferral time periods, those fees which are due and payable at the time of building permit, and those which may be deferred
_____ Initial	The Applicant has not had a foreclosure on any of its properties in the past four years

_____ Initial	The Applicant has not had any bankruptcy filing in the past four years
_____ Initial	The Applicant has no outstanding and unsatisfied Civil Judgment

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

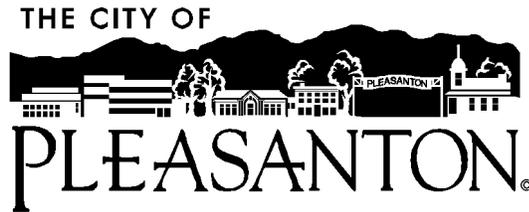
Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company



## **PROGRAM FOR DEFERRING THE PAYMENT OF CITY DEVELOPMENT IMPACT FEES FOR RESIDENTIAL DEVELOPMENT**

**Purpose.** The deferral of development impact fees can be a significant factor regarding whether it is economically feasible to start construction on a residential development, particularly in this time of contraction in the credit markets.

Allowing construction to commence with a deferment may benefit the City by: (a) accelerating increases in property tax valuation due to assessment as improved land or increased property value through a sales contract; (b) collection of sales taxes on building materials purchased locally; (c) revenue from business license taxes from contractors and design professionals; (d) employment of construction personnel and their spending in the local area; and (e) increased business activity when owners and purchasers seek to furnish their new home prior to occupancy.

The State recently passed legislation which allows for the deferral of development impact fees for residential development. (See AB 2604.)

### **Program.**

- 1) Developments Qualifying for Program. Residential development projects which may qualify for the deferment program include: (a) single-family detached homes; (b) single-family attached homes such as duets, condominiums, townhouses; (c) second units; (d) multi-family developments such as apartment buildings; and (e) residential development units within a mixed-use development.

Projects which do not qualify for this program include (extended stay) hotels, motels, and nursing homes.

- 2) Persons and Entities Qualifying for Program. Property owners of individual parcels, or builders with multiple parcels to develop, both qualify for the deferment program.

However, owners or builders who have outstanding unpaid permits, licenses, fees, bills, penalties or fines<sup>1</sup>, even if arising from another parcel, may be denied participation in the deferral program until such amounts are paid.

- 3) Fees Subject to Deferral. The City development impact fees subject to deferral are the Public Facilities Fee, Traffic Development Fee, Lower Income Housing Fee, City Water Connection Fee, and City Sewer Connection Fee.

Pro-rata shares to reimburse the City or private developers for infrastructure costs are not subject to this deferral program. In addition, the Park In-Lieu Dedication Fee is not subject to this deferral program.

*Note:* Fees collected or verified by the City's Building Division for other agencies at the time of issuance of a building permit include: Tri-Valley Transportation Fee, Zone 7 Water Connection Fee, Zone 7 Drainage Fee, Dublin San Ramon Services District Sewer Connection Fee, and Pleasanton Unified School District School Impact Fee; and these fees are not able to be deferred by this City program.

- 4) Period of Deferral. Payment of City development impact fees shall be deferred until the earlier of: (i) final inspection; (ii) issuance of a certificate of occupancy; or (iii) close of escrow for each distinct dwelling unit. For example, if a condominium project sells one unit through an escrow, deferred fees are due for that one unit sold, and not all of the units in the project. For an apartment project, if the project has several separate buildings with units, if the builder seeks a final inspection for the building in the first phase of development, deferred fees are due for the units in that first phase plus any due for common areas, but not for all the buildings and units in the entire project.

A. Interest. If the owner or builder defer payment of fees for more than twenty four (24) months from the date of the promissory note, interest shall accrue and compound at the rate of Bank of America's Reference Rate and shall be adjusted every six months.

- 5) Changes in Fees During Deferral. If any of the City's development impact fees which were deferred pursuant to this program, are increased based on a recalculation (pursuant to a California Government Code §§66000 *et. seq.* nexus study) during the deferral period provided by this program, the owner or builder shall have ninety (90) days from notice from the City of such increase to pay the deferred fee at the amount in effect before such increase.

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<sup>1</sup> Including, but not limited to: building permits, business licenses, fees for extra inspections, water or sewer bills, penalties for non-payment of any of the proceeding, or fines for code violations.

- 6) Guaranty of Payment. Guaranty for payment of the deferred fees shall be accomplished by the owner or builder, or other person with authority, executing: (a) a promissory note specifying the fees deferred, their amounts, potential interest and increases as set forth in Sections 4 and 5 above, and timing for payment as set forth in Section 4, above; (b) a deed of trust to be recorded against the parcel securing the amount due pursuant to the promissory note, including a covenant running with the land<sup>2</sup> agreeing that a certificate of occupancy, final inspection and gas service connection will not be provided until payment of the deferred fees is verified.

The sample documents attached to this program are for a generic deferral situation. Each document will be written to apply to the specific type of residential development seeking the deferral.

- 7) Administration. Information about this program shall be made available in the lobby of 200 Old Bernal, and the Building and Planning Divisions may provide to each owner and builder submitting plans for a residential development a copy of this Program.

If an owner or builder express interest in the program, City staff from Community Development, Finance, Economic Development and the City Attorney's Office shall determine if the project, owner or builder are eligible. If eligible, the Building Division and Finance Department will calculate fees eligible for deferment, and the City Attorney's Office will prepare the necessary promissory note and deed of trust with covenant regarding gas connection. All documents must be executed and the deed of trust with covenant regarding gas connection recorded before issuance of a building permit.

Upon verification by the City of payment by the owner or builder of the deferred fees, plus interest, if applicable, the City shall execute and record a reconveyance to remove the deed of trust with covenant regarding gas connection from title to the parcel, and shall return the original promissory note.

- 8) Appeal. Any appeal about whether a development, owner or builder qualifies for the program may be decided by the City Manager or his designee. However, the City Manager may refer the matter to the City Council. Absent a referral by the City Manager, the decision of the City Manager or his designee shall be final and not subject to appeal.

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<sup>2</sup> "Running with the land" means that the covenant will apply to the current owner and any subsequent owner (in the event a property owner experiences a default or foreclosure and a new person buys the property).

- 9) Term of Program. This program shall be available until June 30, 2011. However, the City Manager may extend the program for four (4) additional periods of six (6) months each in his reasonable discretion based upon the economic conditions in the community. The City Council shall be advised of any such extension(s).

Attachments:

- Sample Form of Promissory Note
- Sample Form of Deed of Trust with Covenant regarding Gas Connection
- Sample Form of Reconveyance

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**DEFER PAYMENT OF SOME IMPACT FEES  
ON RESIDENTIAL PROJECTS**

*Are you building* a single-family home; duet; condo; townhouse; second unit; apartments; or a mixed-use development?

*You may be able to defer payment of some City fees:* the Public Facilities Fee, Traffic Development Fee, Lower Income Housing Fee, City Water Connection Fee, and City Sewer Connection Fee.

For example, for a standard detached single family home, the following fees may be deferred:

<u>Amount</u>	<u>Fee</u>
\$4,238	Public Facilities Fee
\$4,218	Traffic Development Fee
\$10,053	Lower Income Housing Fee
\$1,600	City Water Connection and Meter Fee
\$500	City Sewer Connection Fee
<hr/>	
\$20,609 <sup>1</sup>	<i>City Fees which may be Deferred</i>

*Payment due before the earlier of:* (i) final inspection; (ii) issuance of a certificate of occupancy; or (iii) close of escrow for each dwelling unit.

*Deferral is interest-free for 24 months.*

*You guaranty payment by* executing a promissory note [your promise to pay the fees]; and a deed of trust [which is a lien recorded against the property where the residential unit(s) are being built].

The Pleasanton City Council adopted this program to assist the local economy. If you have questions about this program, which is available through June 2011, please ask Dennis Corbett or Ray Yamada in the Building & Safety Inspection division at (925) 931-5300. More information, as well as sample documents, are available in a handout or the City of Pleasanton's website:

<http://www.ci.pleasanton.ca.us/business/building/forms-and-applications.html> - click on [Program for Deferring the Payment of City Development Impact Fees for Residential Development](#).

Rev. 5/09

<sup>1</sup> Sample fees current as of May 2009; fees subject to change - review full terms of program for specific information.

**PROMISSORY NOTE**  
**Secured by Deed of Trust**

DEFERRING THE PAYMENT OF  
CITY DEVELOPMENT IMPACT FEES

Pleasanton, California

\_\_\_\_\_, 200\_\_

FOR VALUE RECEIVED, the undersigned       {state name(s) of borrower and type of entity, if applicable}       ("Borrower") promises to pay to the City of Pleasanton, a municipal corporation (the "City"), at 123 Main Street, Pleasanton, California 94566-0802, Attn: Finance Department, the following amounts:

Amount	City Fee Being Deferred
	Public Facilities
	Traffic Development
	Lower Income Housing
	Water Connection and Meter
	Sewer Connection
	<b>TOTAL</b>

1. Payment. Any amounts due under this Promissory Note shall be due and payable in full on the date of the earlier of:

- (a) The final inspection by the City of Pleasanton's Building Division for the       {Describe type of residential development}       located at       {address}       (the "Residence");
- (b) The issuance of a Certificate of Occupancy by the City of Pleasanton's Building Division for the Residence; or
- (c) The close of escrow for the sale of the Residence.

The Borrower shall provide the City with at least five (5) business days notice of a potential sale of the Residence and information about the title company and escrow number for such transaction.

Failure to declare the amounts due shall not constitute a waiver on the part of the City.

2. Interest. No interest shall be payable on the amount due for twenty-four (24) months from the date of this Promissory Note. If payment is not received within twenty-four (24) months of the date of this Promissory Note, even if one of the actions

triggering payment set forth in Section 1, above, has not occurred, interest shall accrue and compound at the Bank of America Reference Rate, subject to adjustment every six months. In addition to the waiver provisions in Section 10, below, Borrower waives any requirement that the City notify Borrower of any interest accruing or any changes in the interest rate.

3. Recalculation of Fees. If during the time the amounts due under this Promissory Note are not paid, and the City undertakes a recalculation of the City's Development Impact Fees pursuant to a Government Code §§ 66000 nexus study, which are the fees being deferred pursuant to this Promissory Note, if the City adopts an ordinance raising such fees, the City shall provide Borrower written notice of such fee increases, and the Borrower shall have ninety (90) days to make full payment of the amounts due under this Promissory Note, plus interest, if any, and not be subject to such fee recalculation increases.

However, if the Borrower does not make full payment, then ninety (90) days after the effective date of this ordinance raising such fees, the amount due under this Promissory Note shall increase by the increment of such fee increases, and those increased fees shall be the new amounts due, plus interest, if any. The City will provide Borrower written notice of such fee increases when they take effect.

The City specifically acknowledges that routine adjustments to the fees pursuant to the Engineering News Records Construction Costs Index to account for inflation are not a recalculation of fees.

4. Security. This Promissory Note is secured by a deed of trust dated the same date as this Promissory Note (the " Deed of Trust").

5. Indemnity. Borrower agrees to defend, indemnify, and hold City , the City of Pleasanton, and their employees, agents, officers, board members and/or council members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys fees that City may incur as a direct or indirect consequence of:

(a) Borrower's failure to perform any obligations as and when required by this Promissory Note and the Deed of Trust; or

(b) the failure at any time of any of Borrower's representations or warranties to be true and correct.

6. No Waiver by City. Any failure by the City to pursue its legal and equitable remedies upon Borrower's default shall not constitute a waiver of the City's right to declare a default and exercise all of its rights under this Promissory Note and the Deed of Trust. Nor shall acceptance by City of any payment provided for herein constitute a waiver of the City's right to require prompt payment of any remaining payments owed.

A waiver of any term of the Promissory Note must be made in writing and shall be limited to the express written terms of such waiver.

7. Attorney's Fees and Costs. Borrower agrees that if any amounts due under this Promissory Note are not paid when due, to pay in addition to interest, if any, all costs and expenses of collection and reasonable attorney fees paid or incurred in connection with the collection or enforcement of this Promissory Note, whether or not suit is filed.

8. Joint and Several Obligations. This Promissory Note is the joint and several obligation of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns.

9. No Offset. Borrower hereby waives any rights of offset it now has or may hereafter have against City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Promissory Note.

10. Waiver. Borrower and any endorsers or guarantors of this Promissory Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice of non-payment of this Promissory Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Promissory Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred, including reasonable attorneys' fees.

11. Notices. All notices required in this Promissory Note shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt, as follows:

To the Borrower:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the City:

City of Pleasanton  
123 Main Street  
Pleasanton, CA 94566-0802  
Attn: City Manager

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section.

12. Controlling Law. This Promissory Note shall be construed in accordance with and be governed by the laws of the State of California. The venue for any legal action pertaining to this Promissory Note shall be Alameda County, California.

13. Severability. Any provision of this Promissory Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

14. Entire Agreement. This Promissory Note along with the Deed of Trust sets forth the entire understanding and agreement of the City and the Borrower and any amendment, alteration or interpretation of this Promissory Note must be in writing signed by both the City and the Borrower.

BORROWER:

\_\_\_\_\_  
\_\_\_\_\_

(Print Name)

\_\_\_\_\_  
\_\_\_\_\_

(Print Name)

Approved as to form:

\_\_\_\_\_  
Michael Roush, City Attorney

//  
Rev. 3-11-09

Master Builders Association of King & Snohomish Counties  
Economic Stimulus – Permit Extension Ordinances  
Last Updated: 2/19/2010

County	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
King County	Also includes 1-year extension for building permits.	Extension to 7-years	Extension to 7-years	5/11/09	Now in effect	12/31/11	Applies to permits approved between 12/1/03-1/1/10	David
Snohomish County	Short Plat and Subdivision extensions approved. Building permit extension ordinance forthcoming.	Up to 3-year extension	Up to 3-year extension	6/3/09	Now in effect	12/31/2010	Upon request once fees are paid	Mike
	Bond Reform Passed			8/26/09	Now in effect	None	Performance and Warranty Bonds Lowered from 150% to 110%	Mike
Snohomish County	Building Permit Extensions			2010		12/31/2010	Council action January of 2010	Mike
Pierce County	2-year extension for active building permits, vesting rights, land use, subdivision, and other development applications & approvals.	2-year extension	2-year extension	12/2/08	1/1/09	7/1/09	Requests must be submitted between 1/1/09 and 6/30/09	Pierce County MBA

SC - Cities	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
Bothell	Plats, building, grading, CUP, PUD, bond rate changes. Retroactive to June 1, 2008, sunsets December 31, 2010 Part of 2009 Comp Plan Docket	12- month extension	12- month extension	7/21/09	6/1/08 (retroactive)	12/31/10	Critical area bonds reduced from 5 years down to 3 years.	Jennifer
Edmonds	Building Permits now valid for 360 days + 360 day extension. Looking at permanently removing landscaping bonds, extending design review and reducing parking standards.	Extend design review from 18 to 30 months or allow two 1-year extensions	-	10/28/08	11/7/08	11/7/10	Building permit progress inspections waved when extension is requested	Jennifer
Everett	Extended short plats + binding site plans to 5 years + 1 year extension. Previously, both short plats and binding site plans were only valid for 3 years, with no extension.	5 + 1	5 + 1	11/25/09	Now in effect	-	11/9/09 1 <sup>st</sup> reading 11/25/09 final action	Jennifer
Everett	Process II + III Land Use Approvals now valid for 24 months + two 1-year extensions.	-	-	3/4/09	3/24/09	12/31/11	Must request in writing within first 24 months	Jennifer
Lynnwood	Applies to ADU, CUP, design review, variance and short	2+1-year	valid 5 years	2/8/2010	2/		Request by 3/30/2010	Jennifer

Master Builders Association of King & Snohomish Counties  
Economic Stimulus – Permit Extension Ordinances  
Last Updated: 2/19/2010

	plats.	extension						
Mill Creek	Mayor has expressed support.	In progress	In progress	tbd	tbd	tbd	7/28/09 study session	Jennifer
Monroe	3-year plat extensions and 2-year zoning code extensions. Council to discuss reactivating expired permits 1/5/2010	3- year extension	3- year extension	8/4/09	9/06/09	9/6/10	Must request in writing	Jennifer
Snohomish	Planning Commission voted for extensions at 12/2 meeting. Proposed 3 year extension for plats + short plats.	3-yearly extensions	3-yearly extensions	2/2/2010	Now in effect	1/1/2013	Request 60-150 days prior to expiration	Jennifer
Sultan	Mayor expressed support, MBA sent examples. Currently city reviews each expiring plat on a case-by-case basis.	Case by case	Case by case	-	-	-		Jennifer
Marysville	Plats, short plats, building permits and conditional use permits all included.	Proposed 36-month extension	Proposed 36-month extension	7/27/09	Now in effect	12/31/11	Passed Planning Commission 6-23-09	Mike
Marysville	School Impact Fees – Discount Rate increased to 50%			12/15/09	Now In effect	None	Passed City Council 6-1	Mike
Arlington	Impact Fee Deferral – Change from application to building permit. MBA advocating even later – point of sale						Currently at Council Workshop level	Mike

Master Builders Association of King & Snohomish Counties  
Economic Stimulus – Permit Extension Ordinances  
Last Updated: 2/19/2010

KC - Cities	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
Auburn	Previously, a building permit was good for two years with no possibility to extend that time. Two years remains the time a building permit is viable, but now six-month extensions will be allowed through a request in writing after two years.	Administrative	Administrative	Sept	Oct	-	Upon Request	Garrett
Federal Way	Extensions approved to 5-years with potential to extend further	9 units or less	Complete	Oct	Oct	-	SEPA thresholds raised to state maximums Traffic impact fees collected at sale	Garrett
Kent	2-year extension, automatic; 4-years total	2-year extension, automatic; 4-years total	Currently 4 years total	4/09	4/09	12/31/10	Kent wants to implement projects with new development standards. The 4-year total remains, vesting done next year.	Garrett
Renton	2-year extension, automatic	2-year extension, automatic	Building permit extension on request; administrative	3/09	3/09	-	Upon request	Garrett
Seattle	Administrative for most extensions.  Council approved extensions to all Master Use Permits in August from 3 to 6 years upon request.	Administrative	Upon request, once fees are paid	8/09	9/09	1/1/2011	Master Use Permits extended to 5 years	Garrett
Issaquah	Administratively extending building permits through 2009	1-year extension	1-year extension	4/6/2009	Now in Effect	None	Permanently adds an optional one year extension to Issaquah's development code	David
Kirkland	Building and grading permits & applications	Discussing, no draft language written yet	Discussing, no language written yet	4/7/09	Now in Effect	None	Good for building permits approved 9/1/06 - 1/1/10 & LSM permits approved 9/1/07 - 1/1/10	David
Redmond	Building permits are being extended administratively, no ordinance needed to extend	2-year extension	X	6/2/09	Now in effect	12/2/09	Emergency ordinances extended plats to 7	David

Master Builders Association of King & Snohomish Counties  
 Economic Stimulus – Permit Extension Ordinances  
 Last Updated: 2/19/2010

							years and moved point of collection of impact fees to cover inspection. These changes have gone to public hearing and are fully implemented.	
Kenmore	Building Permits extended by 1 year by ordinance	2-year extension	2-year extension	11/23/09	Late November, 2009	N/A	This ordinance applies to all preliminary plats and permits that were active (not expired) on the date of passage of the ordinance.	David
Sammamish	Addresses point of collection for Impact Fee's	N/A	N/A	7/21/09	Now in effect	12/30/09	Park and Transportation Impact fees can now be collected at point-of-sale if an agreement is signed by the builder and city. Fees will be paid out of the proceeds of the sale.	David
Sammamish	Building permits granted one 12 month extension and permits that have expired up to 18 months ago reestablished	Permanent 2-year extension	Valid for 7-years	3/17/09	Now in effect	None	Good for all plats, short plats and bldg permits approved 1/1/04-1/1/10	David
Newcastle	Proposal to extend preliminary plats, approved engineering permits and change point of collection of impact fees to final inspection or Certificate of Occupancy	2-year extension	2-year extension	2/2/2010	Now in effect	12/31/10	Passed council 7-0	David
Kirkland	We've discussed a proposal to move Impact Fee collection to point-of-sale with elected officials.						Would be based on the Sammamish ordinance	David